

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Stanley Lee Moultrie,)	C/A No. 0:11-2333-SB-PJG
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
Sgt. Paul Shane Williams, # 010323;)	
Sgt. Andre Massey, # 447447;)	
Sgt. John Paul Difalco;)	
Officer Ron Wekenmann, # 994210, and)	
Lieutenant John H. Griffith,)	
)	
Defendants.)	

This is a civil action filed by a state prisoner. Therefore, in the event that a limitations issue arises, Plaintiff shall have the benefit of the holding in Houston v. Lack, 487 U.S. 266 (1988) (prisoner's pleading was filed at the moment of delivery to prison authorities for forwarding to District Court). Under Local Civil Rule 73.02(B)(2) of the United States District Court for the District of South Carolina, pretrial proceedings in this action have been referred to the assigned United States Magistrate Judge.

By Order dated October 5, 2011, Plaintiff was given a specific time frame in which to bring this case into proper form. Plaintiff has complied with the Court's Order, and this case is now in proper form.

PAYMENT OF THE FILING FEE:

Plaintiff was previously granted *in forma pauperis* status and it was determined that he owes the full \$350 filing fee. (ECF No. 9.) **The agency having custody of Plaintiff shall collect payments from Plaintiff's prisoner trust account in accordance with 28 U.S.C. § 1915(b)(1) and (2), until the full filing fee is paid.** See Torres v. O'Quinn, 612 F.3d 237, 252 (4th Cir. 2010) ("We hold that 28 U.S.C. § 1915(b)(2) caps the amount of funds that may be withdrawn from an inmate's trust account at a maximum of twenty percent *regardless of the number of cases or appeals the inmate has filed.*") (emphasis in original).

The subsequently docketed Motion for Leave to Proceed *in forma pauperis* should be terminated as duplicative. (ECF No. 12.)

MOTION TO AMEND/CORRECT:

The pending Motion to Amend (ECF No. 11) is granted. Directions to the Clerk based on this Motion are below.

TO THE CLERK OF COURT:

The Clerk of Court is directed to re-docket Plaintiff's motion as a new docket entry entitled Second Amended Complaint. In order to preserve issues raised in this case and give liberal construction to the pleadings, the Clerk of Court is directed to append the Amended Complaint (ECF No. 7) as an attachment to the Second Amended Complaint.

This case is subject to summary dismissal based on an initial screening conducted pursuant to 28 U.S.C. §1915 and/or 28 U.S.C. § 1915A. Therefore, the Clerk of Court shall not issue any summonses nor shall the Clerk forward this matter to the United States Marshal for service of process at this time.

IT IS SO ORDERED.


Paige J. Gossett
UNITED STATES MAGISTRATE JUDGE

November 28, 2011
Columbia, South Carolina